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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,516	05/25/2000	Niranjan Tripathy	FN-3012	9356

7590 10/26/2004

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EXAMINER

POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/580,516

Applicant(s)

TRIPATHY ET AL.

Examiner

Melvin H Pollack

Art Unit

2141

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-21.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/23/04 have been fully considered but they are not persuasive. While an advisory action cannot address in full all arguments, the examiner will attempt to explain the matter further.
2. The following are definitions of relevant claim terms according to the Microsoft Computer Dictionary: Fifth Edition:
 - a. *Telecommunications* – The transmission and reception of information *of any type*, including data, television pictures, sound, and facsimiles, using electrical or optical signals sent over wires or fibers or through the air.
 - b. *Network* – A group of computers and associated devices that are connected by communications facilities....
 - c. *Element* – Any stand-alone item within a broader context.
 - d. *Service* – A customer-based or user-oriented function.... In networking, specialized, software-based functionality provided by network servers, i.e. directory services.
3. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “telecommunications network” in claim 1 is used by the claim to mean “telephony network”,

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while the accepted meaning is “general network with voice and/or data.” The term is indefinite because the specification does not clearly redefine the term. Likewise, the term network element (as shown above) does not automatically convey that it is limited to performing a “telecommunications service function” which in turn is broader than the functionality that the user desires. The examiner recommends, as he did in the prior office action, that the applicant simply amend the claims to clarify that these are specific telecommunication network types and specific types of network elements, which will advance prosecution.

4. As for the usage of official notice, the examiner has used it solely in regards to claims 9-11, in which he states that reverse processes do not need to be shown. The other elements are meant solely to better explain the examiner’s position regarding the above terms and to show how these terms are very well defined in the art, but they are not used for the purposes of rejecting any claims.

5. Regarding the reversals of services, i.e. using a backup process to show a backup recovery process. In re. Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with wheel, was held to be an obvious expedient.). (See MPEP 2144.04, Reversal of Parts). Furthermore, the sole purpose of a backup is a backup recovery at a later time. Therefore, the official notice of a reversal of a process is considered valid by the examiner.

6. Regarding the method/hardware/software functionality mapping, the examiner provides, as promised, “Structured Computer Organization: Second Edition” by Andrew S. Tanenbaum,

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Pp. 10-12, which clarifies hardware/software duality, and shows that software consists of algorithms, or method steps.

7. For the reasons above, the examiner maintains the rejection.

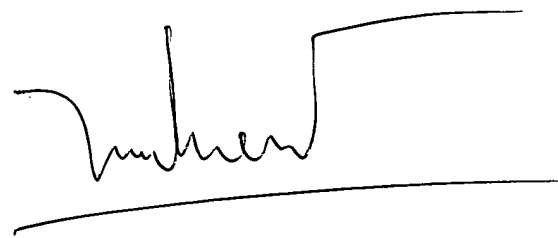
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP
21 October 2004

A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written over a horizontal line.

LE HIEN LUU
PRIMARY EXAMINER